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## LAUNCHING LIQUIDATION PROCEDURES SIMPLIFIED

In the spirit of the legal fight against inter-company debt queues, Parliament substantially amended the Bankruptcy Act with Act LXXVIII of 2007. Invariably, the court will order liquidation of the debtor company in the event of insolvency, but the legislator specified the conditions so that ultimately there be a faster procedure at hand.

Under the new rules, the court will declare the company insolvent and order its liquidation with mandatory force, inter alia, in the case when the debtor failed to repay an undisputed or acknowledged debt arising from a contract within 15 days following the expiry of the due date for payment, or failed to dispute the claim, and failed to pay up even upon the written notice of the creditor following this.

By enacting stringent delivery rules, the legislator made sure that the debtor coming to his senses upon receipt of the payment notice should no longer be able to validly dispute the service provided by the supplier. In the event of postal delivery with receipt acknowledged, the day of receipt is the day indicated in the receipt, while in the case of registered mail, the fifth workday from the day of posting is regarded as the day of receipt.

We do not recommend delivery of the payment notice in a registered letter, instead we advise delivery with receipt acknowledged. It can easily be envisaged that the registered letter reaches the addressee before the presumed period of delivery, that is, prior to the expiry of the five workdays, thus the addressee would be able to validly send a letter listing its complaints and objections to the supplier on the fourth day from posting. In such a case, the supplier must furnish evidence that his letter was received prior to the day of receipt presumed by the law and the claim was disputed by the debtor in the knowledge of the claim.

The theoretical and practical significance of the amendment can be captured in that earlier invoices could be disputed even after the notice of payment; under the current conditions, however, this can only be done until receipt of the notice of payment, provided that the 15 days following the due date for payment have already expired. After the expiry of the 15 days, if the debtor wishes to avoid liquidation, even though he may regard the claim as unjustified, he must pay the amount of the claim to the supplier following the receipt of the written notice, although he may maintain his position about the unjustified nature of the claim even in this case. Then, he may reclaim the amount paid out by way of a civil action.

The above provisions are to be applied from 7 July 2007 to liquidation requests submitted to the court.

Debtors who failed to pay without grounds must, therefore, calculate with more stringent framework conditions and will have to pay greater attention to incoming invoices and the performance behind them. It is, however, a question whether the court infrastructure is prepared to handle an additional increase in the number of liquidation procedures already boosted in the wake of the difficult economic situation.

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